REMARKS

Claims 1-50 were presented for examination. Claims 1-34, 36-39, 45, 46 and 48-50 are pending and are rejected. Reconsideration is respectfully requested.

The 35 U.S.C. § 112 Second Paragraph Rejection

Claim 3 is rejected as being indefinite because there are two recitations of claim 3. The second recitation of claim 3 has been canceled. Therefore the rejection should be withdrawn.

Response to Amendment

It is noted that the examiner has deemed that declaration filed on 12-29-08 to be ineffective to overcome the Cespedes et al. reference. Sean Lehman submitted the attached Record of Invention (ROI) to the Intellectual Property Law Group (IPLG) at Lawrence Livermore National Laboratory on June 1, 2001. The attached ROI therefore proves that the inventor conceived the invention and proceeded with diligence to a constructive reduction to practice from a time prior to the effective date of the reference (8-28-2002).

Once the ROI was submitted to the IPLG, the inventor's duty of diligence was complete. After that, the relevant diligence is that of the IPLG in preparing and filing the patent application. The patent application was filed on March 30, 2004. The time from submission of the ROI to the filing date of the patent application (less than 3 years) is within the usual business practice of the IPLG, due to the large number (over 100) of

ROIs submitted to that office every year. An extensive and time consuming review process is carried out with every ROI, and once it is assigned to an attorney, it is taken up by the attorney in due course. However, the attorney will have a large number of prior assigned cases to complete first. Therefore, the Cespedes et al. reference should be removed.

The 35 U.S.C. § 102 Rejections

Claims 1, 3-12, 14, 16, 17, 19-22, 24-30, 32-34 and 36-39 are rejected as being anticipated by Cespedes et al. The rejection is respectfully traversed.

As discussed above, the reference should be removed. Therefore the rejection should be withdrawn.

The 35 U.S.C. § 103 Rejections

Claims 2, 18, 23, 31 and 45, 46 and 48-50 are rejected as being unpatentable over Cespedes et al. The rejection is respectfully traversed.

The rejection of claim 2 should be withdrawn because it depends from claim 1, which should be allowable as discussed above. The rejection of claim 18 should be withdrawn because it depends from claim 16, which should be allowable as discussed above. The rejection of claim 23 should be withdrawn because it depends from claim 22, which should be allowable as discussed above. The rejection of claim 31 should be withdrawn because it depends from claim 30, which should be allowable as discussed above.

The rejection of claim 45 should be withdrawn because it includes means for constructing intravascular tomography images from data obtained from the plurality of receiving transducers and the means embody a Hilbert space inverse wave algorithm that can map an angular location and a plurality of frequency parameters of said received scattered energy waves. Such algorithm is a wave based algorithm and as shown above, the applicant conceived the use of a wave based algorithm to map an angular location prior to the effective date of the reference. The rejection of claims 46, and 48-50 should be withdrawn because they depends from claim 45.

Claims 13 and 15are rejected as being unpatentable over Cespedes et al. in view of Zhdanov et al. The rejection is respectfully traversed.

The rejection of claims 13 and 15 should be withdrawn because they depend from claim 1, which should be allowable as discussed above. Therefore the rejection should be withdrawn.

Conclusions

It is submitted that this application is in condition for allowance based on claims 1-34, 36-39, 45, 46 and 48-50 in view of the attached ROI and the foregoing comments.

If any impediments remain to prompt allowance of the case, please contact the undersigned at 925-292-4777.

Respectfully submitted,

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Dated: September 29, 2009   Registration No. 38,725